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DALE J. ASCHEMANN
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May 25, 2005

VIA FACSIMILE (202) 616-3085 & E-MAIL

Stanley Alderson
United States Department of Justice
P.O. Box 261
Ben Franklin Station
Washington, DC 20044

RE: U.S. *ex rel.* Andrew Garner v. Anthem *et al.*
S.D. of Ohio, Western Division

UNDER SEAL AND CONFIDENTIAL

**THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
SUBJECT TO THE ATTORNEY CLIENT PRIVILEGE**

Dear Mr. Alderson:

This letter is in confirmation of our discussions and e-mails last week. It is my understanding that the government has reached an agreement with the Defendant to settle this action for \$1.5 million dollars, however, you have not provided any details as to which allegations of the complaint this settlement would resolve. I am requesting that that the Department of Justice and/or OPM advise me in writing of the following:

- how the proposed settlement will be allocated between the different allegations of the complaint, indicating the single damages by count, the multiplier that is being applied, and the number of civil penalties included in the \$1.5 million;
- which counts of the complaint the government has intervened in;
- the basis for which the government believes \$1.5 million is "fair, adequate, and reasonable under all the circumstances" (31 U.S.C. §3730(c)(2)(B));
- a listing of the witnesses that have been interviewed during the government's investigation of the complaint, a summary of the issues on which each witness was questioned, copies of any notes, reports or other documents relating to these interviews, and the date on which the witnesses were interviewed; and,
- whether the government is receiving any additional consideration beyond the \$1.5 million payment in the form of non-cash proceeds, and if so, a listing and valuation of these non-cash proceeds (See U.S. v. U.S. ex rel Thornton, 207 F.3d 769, 773 (5th Cir., 2000)).

EXHIBIT A

Mr. Stanley Alderson
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After I clarified that Relator was not agreeable to a \$1.5 million settlement during our phone conference on May 20, 2005, you then indicated that Mr. Garner was not a proper relator. Please explain the basis for this claim and why you waited approximately four years to raise this issue.

Lastly, as I indicated Friday, I will be proceeding before the court with a fairness hearing pursuant to 3730(c)(2)(B). As our present trial judge held previously in United States ex rel. Gravitt v. General Electric Co., 680 F. Supp. 1162 (S.D. Ohio, 1988), Relator is entitled to limited discovery from the Government in connection with the fairness hearing. (See *also* U.S. ex rel. McCoy v. California Medical Review Inc., 133 F.R.D. 143 (N.D. Cal. 1990)). Please advise me of the witnesses you intend on calling at the hearing and whether the Government would voluntarily make them available for a deposition. In addition, I am requesting that the Government provide me an exhibit list identifying all documents it intends on introducing at the hearing and provide a copy of said documents.

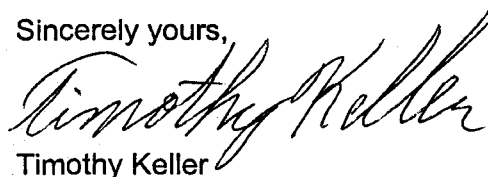
I would also suggest that we consider stipulating to the admission of certain documents. Towards this end, I am requesting that the Government stipulate to the admission of the following documents:

- 1) Barbara Duncombe's March __, 2003 Memorandum to Agent Edminston and the revised FEP True Ups that were attached thereto;
- 2) The 1996 HMP contract between OPM and the Defendant; and,
- 3) The documentation Defendant provided to the Government since April 1, 2005 relating to the second revised FEP True Ups, including but not limited to Barbara Duncombe's e-mails and correspondence, the base documentation for 1996 through 2004, and the second revised FEP True Ups.

I would like to conduct a telephonic conference with the Court in the morning to advise the court of the status of the case, the proposed settlement, and Relator's intention to object thereto. Please advise me of your availability.

If you have any questions or require any clarification, please contact me at your convenience.

Sincerely yours,



Timothy Keller

JTK/lar
Enclosures